

REMARKS/ARGUMENTS

Applicants canceled pending claims 1-23 and added new claims 24-55. Applicants submit that all the requirements of claims 24-55 are disclosed on at least pages 10-12, 53-55, and 90-94 and FIGs. 1, 2, and 6 of the Application discussing the "Event Processing".

The Examiner rejected claims 1-23 as anticipated (35 U.S.C. §102(e)) by Axberg (U.S. Pub. No. 2003/0149769). Applicants request the Examiner to withdraw this rejection because Axberg was in fact filed on the same day of October 5th that the present Application was filed, not on October 4th as indicated on the face of the Axberg publication. Axberg and the pending application are commonly assigned to International Business Machines, Corp. ("IBM").

Applicants submit herewith a copy the U.S. Postal Service Express Mail receipt received when depositing the Axberg application with the U.S. Postal Service. The Express Mail receipt shows in the "date in" field that the Axberg application was in fact mailed on October 5th, not October 4th. Applicants further submit a copy of the return receipt postcard and transmittal letter which also show that the Axberg application was mailed October 5th, the same day as the present application.

According to 37 CFR 1.110(a), an Application filed by Express Mail, such as the Axberg application, "will be considered filed with the USPTO on the date of deposit with the USPS" and that the "date of deposit with USPS is shown by the 'date in' on the 'Express Mail' label or other official USPS notation." Here, the "date in" on the Express Mail receipt received when depositing the Axberg application shows that the Axberg application was filed on October 5th, the date the present application was filed. The assignee intends to file a correction to the filing receipt submitting this evidence to change the filing date of the Axberg application to October 5, 2001, not October 4th.

Accordingly, Applicants request that the Examiner withdraw the rejection in view of Axberg because Axberg was filed on the same day as the present application and thus is not prior art to the present application.

Conclusion

Applicants request Examination of claims 24-55. Applicants further submit herewith the fees for the claim amendments. Nonetheless, should any additional fees be required, please charge Deposit Account No. 09-0466.

Amdt. dated April 4, 2005
Reply to Office action of Jan. 3, 2005

Serial No. 09/972,542
Docket No. SJO920010095US1
Firm No. 0037.0102

The attorney of record invites the Examiner to contact him at (310) 553-7977 if the Examiner believes such contact would advance the prosecution of the case.

Dated: April 4, 2005


By: 

David W. Victor
Registration No. 39,867

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October 5, 2001

Assistant Commissioner of Patents
Washington, DC 20231
Box: New Patent Application

Re: New U.S. Patent Application for
Title: STORAGE AREA NETWORK METHODS AND APPARATUS WITH EVENT
NOTIFICATION CONFLICT RESOLUTION
First Named Inventor: Gary Thomas Axberg
U.S. Express Mail Label No.: EL 835 825 606 US
Our Docket No.: SJ09-2001-0108

Transmittal Letter

Dear Sir:

Please find enclosed a U.S. patent application as follows:

- 1) This Transmittal Letter;
- 2) Application (257 total sheets, of which: Specification (incl. cover sheet) (195 sheets); Claims (13 sheets); Abstract (1 sheet); Drawings (48 sheets));
- 3) Declaration and Power of Attorney (unexecuted);
- 4) Assignment (unexecuted);
- 5) Check in the amount of \$844.00; and
- 6) Return Receipt Postcard.

Please charge any additional fees that may be required to Deposit Account No. 141449.

Kindly acknowledge receipt of the foregoing application by returning the self-addressed postcards.

Respectfully submitted,


David J. Powsner

Enclosures
DJP:crm

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